

A.G. Contract No.: KR04-1723TRN
ECS File No.: JPA 04-089
Project No.: 090-CH-307
Section: SR 90 at Whetstone
Project: Extend Concrete Channel
TRACS No.: H6271 01C
Budget Source Item No.:

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE COUNTY OF COCHISE

THIS AGREEMENT is entered into February 9, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and COCHISE COUNTY, acting by and through its BOARD OF SUPERVISORS (the "County")

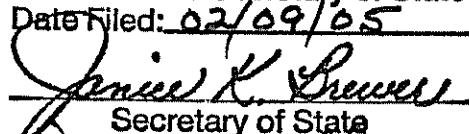
I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes § 11-251 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.

3. The State and the County desire to participate in the design, construction and maintenance of a drainage channel located between State Route (SR) 90 and the Frontage Road (Calle Vista), on the west side of the highway. The Frontage Road is bounded on the south by Camino de Manana, as shown on Exhibit 2, attached hereto and made a part hereof, and is bounded on the north by Camino de Mesa, as shown on Exhibit 1, attached hereto and made a part hereof. The pipe culvert under Camino de Mesa will be replaced and the ditch north of Camino de Mesa will be re-graded to improve the flow and reduce flooding. North of Camino de Mesa, a small drainage easement will be obtained so that the drainage ditch can be cleaned and maintained on a regular basis. On the southwest corner of Camino de Mesa and Calle Vista, a single-inlet catch basin will be installed. A 24" pipe will be installed under Calle Vista and will carry run-off into the concrete drainage channel. On the northwest corner of Camino de Manana and Calle Vista, as shown on Exhibit 2, a double inlet catch basin will be installed to capture existing drainage that runs over Calle Vista. Two 24" pipes will be installed under Calle Vista from the catch basin to the concrete box culvert that runs under SR 90. These improvements are hereinafter referred to as the "Project". The State will design, construct and maintain the Project, all at the State's expense. Upon completion of the Project and the approval by resolution of the State Transportation Board, the State will transfer ownership, jurisdiction and maintenance responsibilities of the Project, and including the Right-of-Way identified on Exhibits 1 and 2, to the County. The estimated cost of the new drainage easement to be acquired by the State is \$5,000.00. The County will maintain the Calle Vista frontage road, including the curb, gutters and spillways along the eastside of Calle Vista, in addition to the new catch basins and the pipe culverts running under the Calle Vista frontage road after the transfer of the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27366
Filed with the Secretary of State
Date Filed: 02/09/05

Secretary of State

By: 

II. SCOPE OF WORK**1. The State will:**

a. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction of the Project, and submit to the County for concurrence.

b. Advertise for bids and award one or more construction contract(s) for the Project. Administer and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by Project delays attributable to the State.

c. Designate the State as authorized agent for the County. The State shall include the County as an additional insured party in any insurance required by any contractor providing design or construction of the Project. The State shall also designate the County as an additional party to be indemnified and held harmless in any contracts for the design or construction of the Project. Any warranties or continuing obligations of these contractors shall be transferred to the County in connection with any transfer of the Project.

d. Upon completion of the Project, perform the final inspection and notify the County in writing that the Project has been constructed in accordance with the Project documents and has been satisfactorily completed.

e. Upon completion and acceptance of the Project by both parties, provide proper maintenance for the drainage channel, within the existing State's right-of-way and that runs parallel to Calle Vista.

f. Upon completion of the Project and the approval, by resolution of the State Transportation Board, transfer ownership jurisdiction and maintenance responsibilities of the Project, including the drainage easement, as shown on Exhibit 1, right-of-way on Camino de Mesa located north of the east edge of Calle Vista, as shown on Exhibit 1, and the right-of-way on Camino de Manana and Calle Vista, as shown on Exhibit 2, to the County.

2. The County will:

a. Review the design documents required for construction of the Project, and provide comments to the State as appropriate.

b. Confer with and obtain written consent from the State on Project-related contract modifications.

c. Be responsible for any design consultant and contractor claims for additional compensation caused by Project delays attributable to the County.

d. Upon completion, and the approval of the transfer by resolution of the State Transportation Board, accept ownership jurisdiction and maintenance responsibilities for the Project, as shown on Exhibits 1, and 2. By signing herein, the County waives the requirements of Arizona Revised Statute § 28-7209.

e. Upon completion and acceptance of the Project by both parties, be responsible to maintain the items described above in Article I. 3. Maintenance shall consist of keeping debris free and clear from the curb, gutters, culverts, catch basins and spillways, and the repair of these facilities should they become damaged.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. However, any provisions for maintenance provided by the County shall be perpetual. This Agreement may be cancelled at any time prior to the award of the Project construction contract, upon thirty-day's (30) written notice to either party. It is understood and agreed that, in the event the County terminates this Agreement, the State shall in no way be obligated to maintain the Project.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 pertaining to State audit are applicable to this contract. In the event of such an audit, the County will bear all costs associated therewith.

5. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

6. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation Joint Project Administration 205 S. 17 th Avenue – Mail Drop 616E Phoenix, AZ 85007 (602) 712-7525	Cochise County County Administrator 1415 W. Melody Lane, Bldg B Bisbee, AZ 85603 (520) 432-9300
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9 Pursuant to Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

COCHISE COUNTY

STATE OF ARIZONA

Department of Transportation

By 
PATRICK CALL
Chairman of the Board

By 
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

By 
NADINE PARKHURST
Clerk of the Board

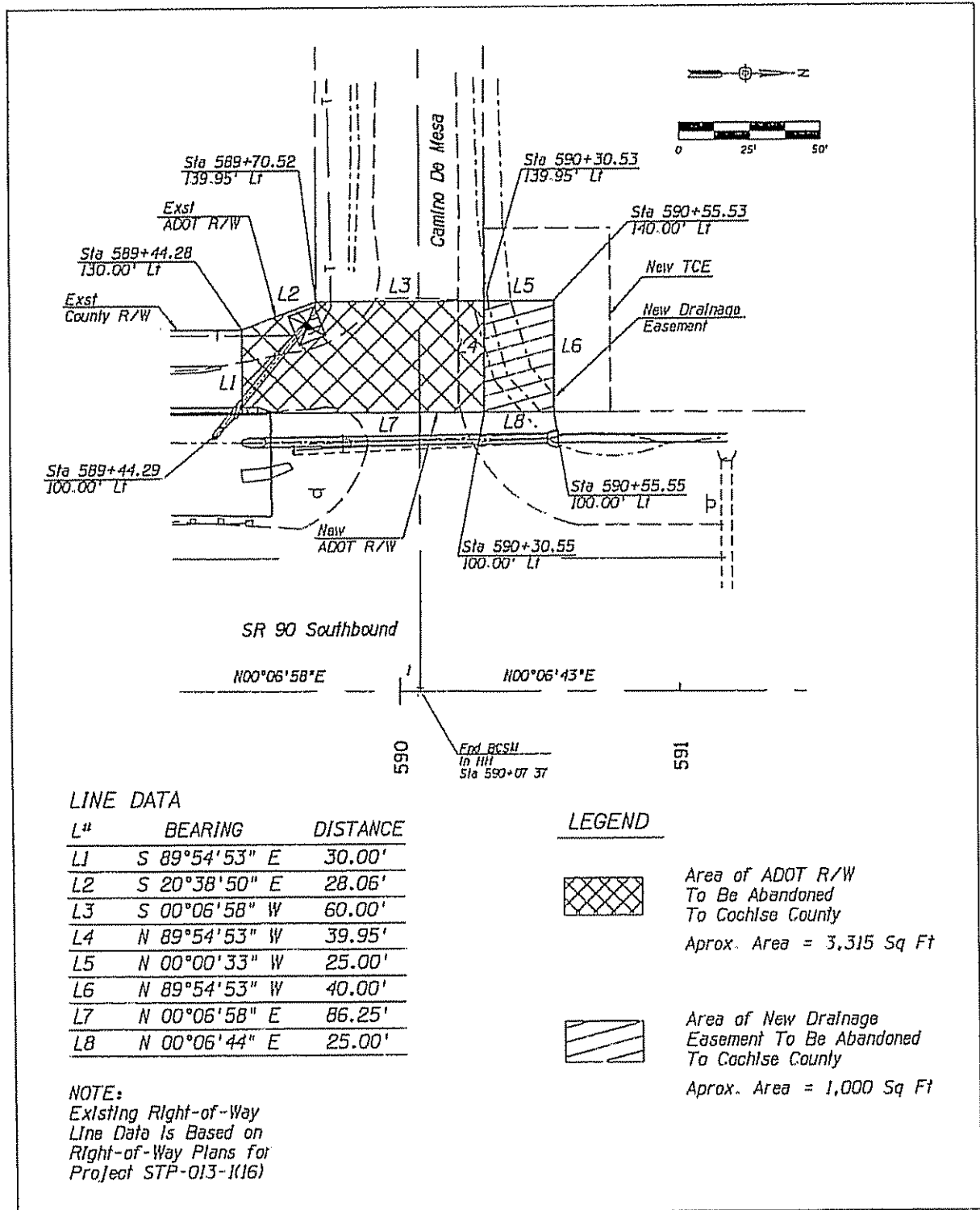


EXHIBIT 1

090 CH 307 H6271 01C
 SR 90 AT WHETSTONE
 CAMINO DE MESA
 ROW TRANSFER

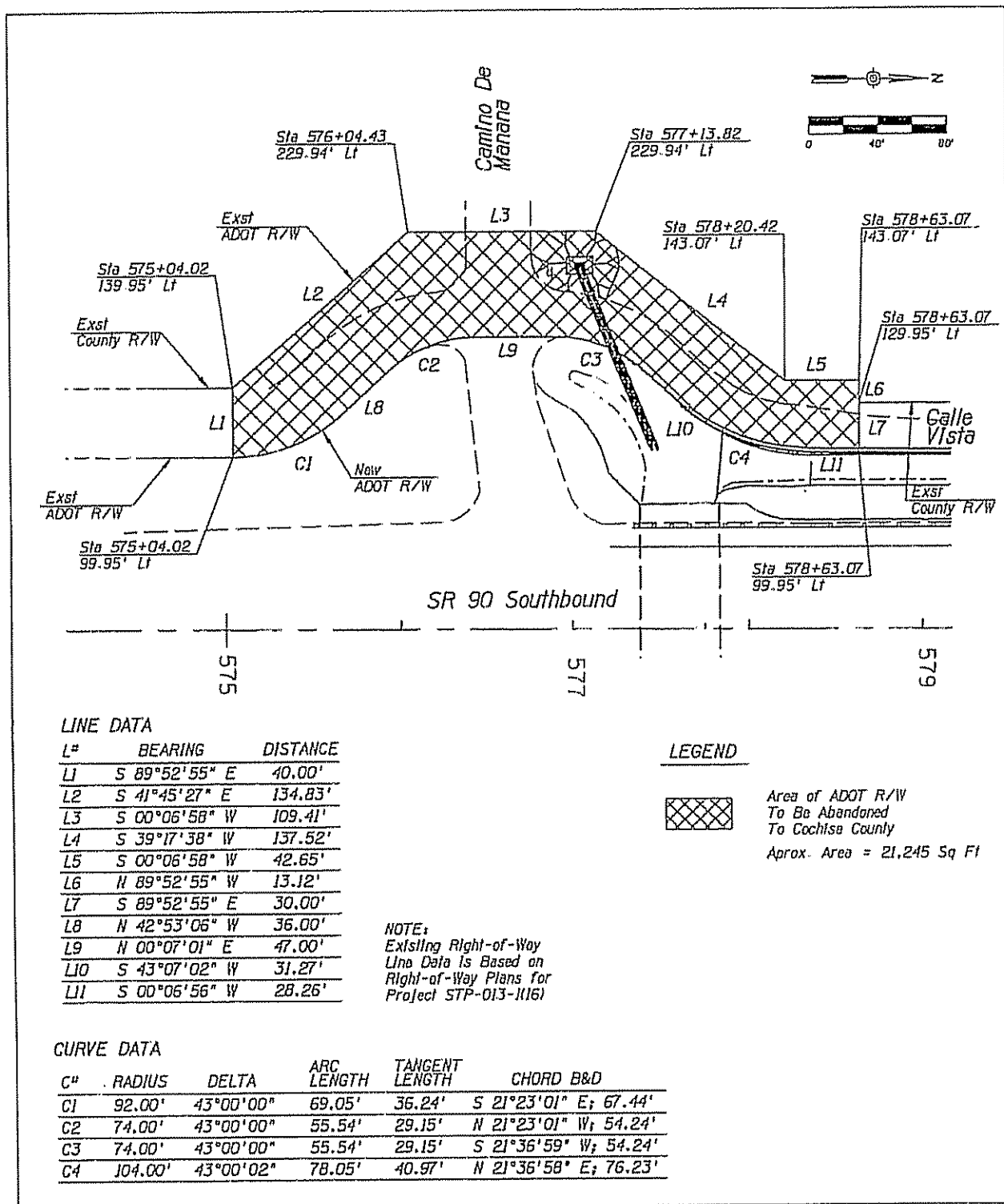



EXHIBIT 2
090 CH 307 H6271 01C
SR 90 AT WHETSTONE
CAMINO DE MANANA
ROW TRANSFER

APPROVAL OF THE COUNTY OF COCHISE

I have reviewed the above referenced proposed Intergovernmental Agreement, between the DEPARTMENT OF TRANSPORTATION, TRANSPORTATION PLANNING DIVISION, and THE COUNTY OF COCHISE and declare this Agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 16th day of December, 2004.



County Attorney

Board of Supervisors

Patrick G. Call
District 1

Paul Newman
District 2

Richard R. Searle
District 3



Jody N. Klein
County Administrator

Nadine Parkhurst
Clerk

CERTIFICATION

I, Nadine M. Parkhurst, hereby certify that I am duly appointed, qualified, and Clerk of the Cochise County Board of Supervisors, Bisbee, Arizona; that as such, I have in my possession the original minutes of the Board of Supervisors' meeting of December 28, 2004 adopted by the Cochise County Board of Supervisors on January 18, 2005, and that the attached is a true and correct copy of the minutes of the Board of Supervisors' meeting of December 24, 2004 as it appears in my records.

Dated this 25th Day of January, 2005

Nadine Parkhurst
Clerk of the Board of Supervisors

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
FORMAL BOARD MEETING HELD ON
TUESDAY, DECEMBER 28, 2004**

A regular meeting of the Cochise County Board of Supervisors was held on Tuesday, December 28, 2004 at 9:30 a.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona. In attendance were Patrick Call, Chairman; Paul Newman, Member; Leslie Thompson, Member; John MacKinnon, Deputy County Attorney; Jody Klein, County Administrator; and Nadine Parkhurst, Clerk of the Board.

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

PLEDGE OF ALLEGIANCE

**THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO
MODIFICATION AT THE MEETING**

ROLL CALL – The three members of the Board were present.

CALL TO THE PUBLIC (MATTERS RELATED TO COUNTY GOVERNMENT - LIMIT OF 3 MINUTES PER PERSON OR AT THE DIRECTION OF THE CHAIRMAN) - Chairman Call indicated that this was the time for any member of the audience to address the Board on County issues not listed on the agenda. No one responded.

REPORT BY MR. JODY KLEIN, COUNTY ADMINISTRATOR ON RECENT AND PENDING COUNTY MATTERS – Mr. Klein stated that he will be reviewing the draft of the Request for Price for joint dispatching services. Mr. Klein will be discussing this proposal with the staff from the City of Sierra Vista. Mr. Klein also mentioned that a form will be developed to give each board member an opportunity to indicate preferences as to which organizations/committees they would like to serve as County Representative.

CONSENT

ATTORNEY

ITEM 1

**APPROVAL OF AN EASEMENT TO THE SIERRA VISTA ECONOMIC DEVELOPMENT
FOUNDATION AS NECESSARY TO ACCESS THE ASSIGNED STATE LEASE NO. 03-109195.**

BOARD OF SUPERVISORS

ITEM 2

**APPROVAL OF ARIZONA CLIPPING SERVICE PRESS CLIPPING SERVICE AGREEMENT
FOR FY04-05**

ITEM 3

**APPROVAL TO WITHDRAW \$10,000 FROM THE GENERAL FUND CONTINGENCY FUND
LINE TO PAY FOR THE FY 04-05 COUNTY SUPERVISORS' ASSOCIATION SERVICE FEES
ADJUSTMENT.**

ITEM 4

DEMANDS

Warrant No. 9073-9400, 9428-9537 and 9539-9754 were issued from the following fund lines in the amount of \$2,236,000.31. Voided warrants are listed below.

VOIDED WARRANTS

Fund 508	WT #7667 Valley Radiologists	\$9.29
Fund 508	WT #7366 Lords Ambulance Srv	\$520.47
Fund 505	WT #5621 Ramos, Emmanuel	\$4.00
Fund 100	WT #5955 Reilly, Robert	\$2.27
Fund 100	WT #5995 Ursey, Steven	\$75.00
Fund 100	WT #4476 Brown, Kristen	\$24.00
Fund 100	WT #6219 Adair Douglas Funeral	\$650.00
Fund 100	WT #7810 C & I Show Hardware	\$33.92
Fund 100	WT #8000 Valley Radiologists	\$10.46
Fund 100	WT #7142 Nat'l College/Dist Atty	\$1,050.00

ISSUED WARRANTS

Fund 100	General Fund	\$272,929.38
Fund 101	Public Defender Training	\$127.08
Fund 105	Bisbee/Douglas Airport	\$2,596.10
Fund 109	Fleet Mgmt	\$78,000.90
Fund 111	S/W Border Local Assist	\$12,159.96
Fund 112	Legal Defender Training	\$177.00
Fund 115	BOS Grants	\$105,409.93
Fund 116	Tourism	\$15,364.66
Fund 121	Attorney Victim Compensation	\$9,122.60
Fund 131	Attorney Diversion	\$456.00
Fund 143	Detention Education (Juvenile)	\$5,365.38
Fund 147	Adult Prob. Svcs. Fee	\$570.93
Fund 149	Adult Probation Community Punishment	\$187.00
Fund 151	Law Library	\$2,108.05
Fund 155	Diversion Intake	\$50.22
Fund 159	Juvenile Prob. Surveillance Grant	\$50.22
Fund 168	Children's Issues Education	\$315.00
Fund 171	County Library	\$7,347.05
Fund 172	State Grt in Aid 04-A-2	\$69.67
Fund 173	State Library Grant 02	\$394.10
Fund 175	Friends of Library	\$486.48
Fund 192	J.T.P.A.	\$71,170.00
Fund 193	Transit - State Assistance	\$428.62
Fund 202	HIDTA	\$1,529.50
Fund 203	Jail Enhancement	\$10,790.71
Fund 212	AZ Criminal Justice Grant	\$2,876.38
Fund 222	Office of Bio Terrorism	\$223.37
Fund 223	Maternal & Child Health	\$173.02
Fund 228	W.I.C. Grant	\$121.16
Fund 229	Steps Along the Brdr Init	\$803.34
Fund 232	Family Planning	\$2,419.19
Fund 233	Aids Grant	\$37.81
Fund 234	TB Control	\$676.67

Fund 237	Health S.T.D. Grant	\$180.21
Fund 241	HIV Outpatient Svcs	\$1,117.36
Fund 243	Immunization Program	\$177.75
Fund 249	Tobacco Educ. Grant	\$951.93
Fund 251	Public Works	\$68,501.01
Fund 261	Flood Control District	\$382.50
Fund 279	Education Service Agency	\$100.00
Fund 284	PDLA Startup Grant	\$1,151.50
Fund 287	Reading First Program	\$780.91
Fund 288	IDEA Trans fr Secure Care	\$1,500.00
Fund 289	Math & Sci Partnership Pr	\$2,518.50
Fund 400	County Capital Projects	\$179,680.46
Fund 450	M.I.S. Capital Reserve	\$26,966.87
Fund 501	County Group Health	\$17,066.72
Fund 504	Solid Waste Capital Project	\$1,103.76
Fund 505	Solid Waste	\$6,981.41
Fund 506	Waste Tire Grant	\$7,347.06
Fund 508	Cochise Health Systems	\$1,043,387.60
Fund 525	Medical Continuing Education	\$39.30
Fund 527	Turning Point Grant	\$3,250.00
Fund 540	Drug Treatment Education	\$1,800.00
Fund 552	SJ Drug Court Enhancement	\$2,043.54
Fund 557	Domestic Violence TF	\$4,158.80
Fund 561	PSI Grant	\$250.00
Fund 582	IDEA-Promising Transition	\$186.64
Fund 600	Heavy Fleet Management	\$259,333.31
Fund 601	Enhanced 9-1-1	\$505.69
	TOTAL	\$2,236,000.31

FACILITIES/SOLID WASTE

ITEM 5

APPROVAL OF INDEPENDENT CONTRACTOR AGREEMENT NUMBER 3405 WITH IMPACT CONSULTANTS FOR PROGRAM EVALUATION SERVICES FOR THE HOPWA HOUSING ASSISTANCE PROGRAM.

ITEM 6

APPROVAL OF MEMORANDUM OF UNDERSTANDING NUMBER 3505 BETWEEN COCHISE COUNTY AND THE HOUSING AUTHORITY OF COCHISE COUNTY FOR OUTREACH, TENANT-BASED RENTAL ASSISTANCE AND HOUSING INFORMATION SERVICES UNDER THE HOPWA GRANT

HEALTH

ITEM 7

APPROVAL OF AMENDMENT #1 TO THE HIV SERVICES CONTRACT #HG352264 BETWEEN ARIZONA DEPARTMENT OF HEALTH SERVICES AND THE COCHISE COUNTY HEALTH DEPARTMENT.

ITEM 8

APPROVAL OF AMENDMENT #4 TO CONTRACT #HG352189, IMMUNIZATION SERVICES BETWEEN THE ARIZONA DEPARTMENT OF HEALTH SERVICES AND THE COCHISE COUNTY HEALTH DEPARTMENT.

HIGHWAYS AND FLOODPLAIN

ITEM 9

ADOPTION OF RESOLUTION 04- 118 TO INSTALL STOP AND YIELD SIGNS IN THE GREATER SIERRA VISTA, WHETSTONE AND PARKER LAKE AREAS.

ITEM 10

ADOPTION OF RESOLUTION 04- 119 TO INSTALL STOP SIGNS IN THE HEREFORD AREA.

PURCHASING

ITEM 11

**PURCHASING FOR FLEET MANAGEMENT DEPARTMENT
POSSIBLE RENEWAL OF CONTRACT 1604 RETAIL FUEL PURCHASES**

ITEM 12

**PURCHASING FOR HIGHWAY DEPARTMENT
POSSIBLE AWARD OF INVITATION FOR BIDS 2505 ROAD MATERIALS-COLD MIX**

ITEM 13

**PURCHASING FOR HIGHWAY DEPARTMENT
POSSIBLE AWARD OF INVITATION FOR BIDS 2605 ROAD MATERIALS-CONCRETE**

ITEM 14

**PURCHASING FOR HIGHWAY DEPARTMENT
POSSIBLE AWARD OF INVITATION FOR BIDS 2705 ROAD MATERIALS-CHIPS AND AB**

ITEM 15

**PURCHASING FOR HIGHWAY DEPARTMENT
POSSIBLE AWARD OF INVITATION FOR BIDS 2805 CRUSH AGGREGATE AT VARIOUS
PITS IN COCHISE COUNTY**

ITEM 16

**PURCHASING FOR HIGHWAY DEPARTMENT
POSSIBLE AWARD OF INVITATION FOR BIDS 2405 CORRUGATED METAL PIPE**

SHERIFF

ITEM 17

**ACCEPTANCE OF AN OVERSIGHT COUNCIL ON DRIVING OR OPERATING UNDER THE
INFLUENCE ABATEMENT GRANT TO PROVIDE \$25,000 IN OVERTIME FUNDS FOR USE
BY THE DUI TASK FORCE.**

Supervisor Newman made a motion, which was seconded by Supervisor Thompson, to approve Item No. 1 through Item No. 17 of the Consent Agenda. The motion unanimously carried.

ACTION

BOARD OF SUPERVISORS

ITEM 18

**APPROVAL OF AN IGA WITH THE CITY OF TOMBSTONE/TOMBSTONE SCHOOL
DISTRICT AND/OR AUTHORIZATION TO PERFORM AN IGA PROJECT FOR
CONNECTING THE ROADWAY TO THE NEW TOMBSTONE HIGH SCHOOL.**

Supervisor Thompson made a motion to authorize the execution of the necessary intergovernmental agreements with both the City of Tombstone and Tombstone School District which would allow County Highway and Floodplain personnel to perform overtime work paid for by the School District to construct the access road from Highway 80 to the school site and authorize the Chairman to sign.

The new Tombstone High School is almost completed but the problem remains with the construction of the road from the school to Highway 80. The City of Tombstone is not financially able to help with this cost so the State has agreed to provide some funding. Supervisor Newman spearheaded a committee to help resolve this impasse. Now that the funds have been obtained, Supervisor Newman requested that the Board approves an intergovernmental agreement with the City of Tombstone and the Tombstone School District to build the access road. At this point, the cost estimate is 87,000 but the actual design has not been performed.

Mr. John MacKinnon, Deputy County Attorney, stated that in his legal opinion this motion was premature and recommended that the agreement be negotiated before approval by the Board. County Administrator Jody Klein suggested that the word "execution" in the motion be replaced by the word "negotiation". This amendment, if approved, would allow for all the necessary negotiations to take place and the negotiated agreement would be presented at a later date for approval by the Board.

An amendment to the main motion was made by Supervisor Newman and seconded by Supervisor Thompson to replace the word "execution" in the main motion with the word "negotiation". The amendment unanimously carried.

Result of the vote of the main motion:

Chairman Call voted YES

Supervisor Newman voted YES

Supervisor Thompson voted YES - The amended motion unanimously carried.

HIGHWAYS AND FLOODPLAIN

ITEM 19

APPROVAL OF IGA WITH ADOT FOR CONSTRUCTION AND FUTURE MAINTENANCE OF DRAINAGE EASEMENT WEST OF HWY 90 BETWEEN CAMINO DE MANANA AND CAMINO DE MESA

Supervisor Newman made a motion, which was seconded by Supervisor Thompson for the purpose of discussion, to approve the Intergovernmental Agreement with the Arizona Department of Transportation and that the Chairman be authorized to sign.

Because of wildcat development and the widening of Highway 90, property owners near Camino de Manana and Camino de Mesa have experienced flooding in their houses. Staff from the Engineering Division of the Highway Department has determined that this problem could not be addressed until the drainage channel within the Arizona Department of Transportation (ADOT) right-of-way was lowered and cleaned. ADOT has agreed to design and construct the necessary improvements to the right-of-way. The County has agreed to perform all future maintenance to the culverts and to the drainage way itself. The agreement with ADOT will not require any funding from the County at this time. It is expected that the construction bid will be awarded in the early part of the next fiscal year.

Result of the motion: Chairman Call voted YES
 Supervisor Newman voted YES
 Supervisor Thompson voted YES

PLANNING & ZONING

ITEM 20

DOCKET S-03-04: REQUEST TO APPROVE AND AUTHORIZE THE CHAIRMAN TO SIGN THE Y LIGHTNING SUBDIVISION FINAL PLAT AND ASSURANCE AGREEMENT

Supervisor Thompson made a motion, which was seconded by Supervisor Newman for the purpose of discussion, to approve the Y-Lightning Final Plat and Sign Plan and the Chairman be authorized to sign the plat subject to a correction to the CC&R's stating that the Y-Lightning Homeowner's Association will maintain the detention pond and open space. Supervisor Thompson also moved that the Y-Lightning Assurance Agreement be approved and the Chairman be authorized to sign.

This request is for approval of the final plat for the Y-Lightning Subdivision located east of Y Lightning Ranch Road, one-half mile north of Hereford Road. The 90-acre site is zoned RU-4 and 30 lots for single family site built residences are proposed. The developer is exercising the Cluster Residential Subdivision Option which allows for smaller lots if at least 25% of the subdivision is left as open space. The 22.6 acre open space on the northeast corner of the property will remain in a natural state with a detention pond included in the area. The homeowners' association will be responsible for the maintenance of the detention pond and the open space area.

The subdivision will be on septic systems and water provided by the Cochise Water Company. As this water company has been experiencing distribution problems in the past, it was recommended that a condition be included in the Assurance Agreement which would read:

- Prior to any lot sales, water to be provided by an appropriate water service provider (currently Cochise Water Company) franchised with Cochise County, and approved by the Arizona Department of Environmental Quality, Arizona Corporation Commission and Arizona Department of Water Resources.

The Planning and Zoning Commission voted unanimously to approve the tentative plat. The final plat is in substantial conformance with the approved tentative plat. The motion unanimously carried.

ITEM 21

REQUEST TO AMEND THE GOLDEN ACRES SUBDIVISION UNIT 2 FINAL PLAT TO CREATE THREE PARCELS FROM TRACT B.

Supervisor Newman made a motion, which was seconded by Supervisor Thompson for purpose of discussion, to approve the re-plating of Tract B of the Golden Acres Subdivision, Unit 2 into three parcels, subject to the applicant smoothing and widening the High Lane travel way to a width of 16 feet and placing a gravel surface to be approved by the Highway and Floodplain Department on the alley and the High Lane travel way to Gambel Quail Place before any lots are sold and to authorize the Chairman to sign the plat. Supervisor Newman further moved to grant a waiver from Section 405.02 of the Subdivisions Regulations to allow access onto the 16' wide alley and allow a gravel surface. Supervisor Thompson also seconded this motion.

A request was received from Mr. James Lassegard to amend the Golden Acres Subdivision Unit 2 Final Plat to create three parcels out of the Tract B he recently purchased. Tract B is located just outside of the Sierra Vista City limits in a Category A Urban Growth Area.

The County Regulations require that any resubdivision of an existing plat requires a new plat. The Golden Acres Subdivision was plated in 1973 and there is no indication as to the use of Tract B.

After review, it was determined that it would be very cumbersome for the applicant to gather property owner signatures, the County Attorney suggested the following note be added to the plat "This re-subdivision of Tract B in the Golden Acres Subdivision Unit 2 does not alter any other lots and only Tract B is being altered."

It was also determined that the parcel is large enough to allow for three lots and the Planning Department can issue three permits. The Rural Addressing Division has already issued three addresses.

The Planning and Zoning Commission voted unanimously to forward a recommendation for approval to the Board of Supervisors to re-plat Tract B of the Golden Acres Subdivision, Unit 2 into three parcels subject to:

- Smoothing and widening the High Lane travel way to a width of 16 feet and placing a gravel surface to be approved by the Highway and Floodplain Department from the alley and the High Lane travel way to Gambel Quail Place before any lots are sold.

The Commission also recommended approval of a waiver from Section 405.02 of the Subdivisions Regulations to allow access onto the 16' wide alley and a gravel surface. The motion unanimously carried.

PUBLIC HEARINGS

HIGHWAYS AND FLOODPLAIN

ITEM 22

APPROVAL OF REVISION OF RIGHT-OF-WAY ORDINANCE NO. 34-04 AND ATTACHED FEE SCHEDULE

Supervisor Thompson made a motion, which was seconded by Supervisor Newman for the purpose of discussion, to adopt Ordinance No. 34-04 as well as the attached fee schedule and the Chairman be authorized to sign.

Ordinance 12-94 establishing fees for rights-of-way uses (public roads, streets and alleys) by individuals, corporations and political subdivisions was adopted ten years ago. It was felt that that the time had arrived to review this document and make some changes, clarifications and update some of the fees to reflect the actual costs occurred. The most common activities within the rights-of-way are the installation of utilities next to or under a road, new driveway connections and new subdivisions.

Notice of this public hearing and the intention of the County to increase fees were published according to the statutes. No comments were received from the general public. (Copy of the Ordinance No. 34-04 as well as the accompanying fees is available upon request with the Clerk of the Board or the Highway and Floodplain Department.)

Chairman Call indicated that this meeting was a public hearing and invited any member of the audience to address the Board regarding these fees. No one responded. Chairman Call closed the meeting.

The Board members reviewed the proposed fees. Supervisor Newman stated that the subdivision phase inspection fee of \$50 per inspection with a maximum of \$750 was too low and mentioned that Pima and Pinal Counties charge 4 to 5% of the total construction costs. Mr. Patricia Morris responded that this fee was set at this level in order to encourage subdivisions and not discourage small developers.

After discussion, the Board members decided to set a cap of \$750.00 for subdivisions composed of 25 or fewer lots. No cap will be present for subdivisions of 25 lots or more. Supervisor Newman stressed that staff should review the possibility of charging a percentage of the total construction cost for subdivision inspection fee. A number of large subdivisions are being planned in the near future for Cochise County and it would be a way for the County to recover some of the costs associated with these subdivisions.

An amendment to the main motion was made by Supervisor Newman and seconded by Supervisor Thompson, to place a cap of a maximum of \$750 for subdivision phase inspection fee. The fee per inspection will remain \$50 but will be capped at \$750 for subdivisions with 25 lots or fewer. This amendment to the main motion carried unanimously.

Result of the vote of the main motion:

Chairman Call voted YES

Supervisor Newman voted YES

Supervisor Thompson voted YES. The amended motion carried

PLANNING & ZONING

ITEM 23

Z-04-12 (TRAIL'S END) A REQUEST TO REZONE 5 ACRES ON EAST BUFFALO SOLDIER TRAIL FROM TR-36 TO LIGHT INDUSTRY.

The applicant, Mr. Lynn Mattingly, is requesting to rezone an estimated five acres from TR-36 (one residence per 36,000 sq ft) to Light Industry (LI). The parcel (107-34-002) is located at the east end of Buffalo Soldier Trail, east of Highway 92, near Sierra Vista. Properties around this parcel reflect heavy commercial uses and a light industry zoning is more appropriate than the TR36 zoning

Factors in favor of approval:

- The Comprehensive Plan allows consideration of the proposed rezoning for areas designated Developing
- The parcel is large enough to be reasonably developed with typical LI zoning district uses
- The rezoning will provide local services to the community at large
- Site improvement standards can be met
- The road will be improved from its current status by future paving
- This rezoning, if approved, will not result in the reduction of the surrounding zoning districts to a shape or size incapable of development
- The proposal is in harmony with surrounding development

Factors against approval:

- Current infrastructure on the parcel is inadequate
- Road to the site is inadequate

This rezoning was advertised in the County Legal Newspaper and the neighboring property owners were notified. Five comments supporting this action were received. No objection to the proposed action was received.

The Planning and Zoning Commission voted unanimously to recommend approval of this rezoning with the following conditions:

- It is the applicant's responsibility to obtain any additional permits, or meets additional conditions, if any, that may be applicable to the proposed activity pursuant to other federal, state or local laws or regulations
- Submit a subdivision plan within 18 months (This document has already been submitted.)
- A roadway maintenance agreement and delayed improvements agreement be provided prior to approval of the final plat.

Chairman Call indicated that this meeting was a public hearing and invited any member of the audience to address the Board. Mr. Lynn Mattingly, the applicant, explained that this rezoning would allow the creation of an industrial commercial subdivision by splitting the property into six parcels. Chairman Call closed the meeting.

The motion unanimously carried.

SUMMARY ON CURRENT EVENTS BY BOARD MEMBERS:

ITEM 24

REPORT BY SUPERVISOR PATRICK CALL, DISTRICT NO. 1 – Chairman Call recognized

Supervisor Thompson for serving twelve years as a member of the Board of Supervisors

REPORT BY SUPERVISOR PAUL NEWMAN, DISTRICT NO. 2 – Supervisor Newman indicated

that a series of town hall meeting is being scheduled in his district.

REPORT BY SUPERVISOR LESLIE THOMPSON, DISTRICT NO. 3 – Supervisor Thompson did not provide a report.

ITEM 25

REPORT BY PUBLIC INFORMATION OFFICER AND BOARD BROADCAST DIRECTION-

Public Information Officer Karla Jensen gave a summary of her weekly activities. The board members agreed that the next Board Broadcast will present wishes for a good and healthy new year to all County employees.

There being no further business, Chairman Call adjourned the meeting. The next regularly scheduled meeting of the Cochise County Board of Supervisors will be held on Tuesday, January 4, 2005 at 9:30 a.m. in the Board of Supervisors Hearing room, 1415 Melody Lane, Building G, Bisbee, AZ.

APPROVED

Patrick Call, Chairman

ATTEST:

Nadine Parkhurst, Clerk of the Board

(SUPPORTING DOCUMENTATION IS AVAILABLE AT THE BOARD OF SUPERVISORS' OFFICE)



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-1723TRN (**JPA 04-089**), an Agreement between public agencies (i.e., The State of Arizona and The County of Cochise), has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: February 2, 2005

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis", written over a horizontal line.

Susan E. Davis
Assistant Attorney General
Transportation Section